

INDEX—AVIATION TRANSPORT

AIR CARRIER LIABILITY

surface damage, 525 ff.; state statutes, 525-6; forced landings, 526; proposed surface damage legislation, 527; personal injury—basis of liability, 528; standard of care, 529; plaintiff's difficulties, 529; counter-arguments, 530; *res ipsa* doctrine, 530-2; survey of recoveries, 532; accident statistics, 533; proposals for personal injury liability, 533; limitation of liability, 534 ff.; state statutes and constitutional provisions, 534; Warsaw Convention, 534; proposals, 535; suggested adjustment of conflicting interests, 537-8; low-flying as a trespass, 546.

AIRPORTS

general discussion of conflicting interests of nearby property owners, 539-55; each can be a nuisance to other, 539; aerial approach standards, 540; the public's interest, 541; importance of zoning, 542; airport as a "nuisance," 543 ff.; considerations, 544; privateness of the airport, 545; public interest as the determinant, 546; low-flying as a trespass, 546; three theories of airspace, 547; theory vs. predictability of liability for harmless flight, 549; reaching "nuisance" results under "technical trespass" doctrine, 550; enjoining airport hazards, 550; intentional obstructions, 551; zoning regulation legally essential, 552; constitutional pitfalls, 552; reasonableness, 554; some considerations affecting reasonableness, 555.

AVIATION LAW (see various other topics)

its significance to the practicing lawyer, 556-563; some points to look out for, 556 ff.; must look beyond common law and state statutes, 557 ff.; recording liens and titles to aircraft with C.A.A., 558; watch out for zoning, 559; treaty-law covering international flights, 559 ff.; thus, the Warsaw Convention and how it comes home to any lawyer, 560 ff.

CHICAGO CONFERENCE

some aims and results of international agreement, 446-7; agreements prior to the Conference, 521; views of U. S. delegation at, 606; "five freedom" difficulties, 606; where the Conference failed, 608; sequels to the Conference, 609-28; six important documents resulting from the Conference, 609; ratifications of the Convention, 610; tables of adherences to the Conference agreements, 611-12; the interim agreement and the interim organization (PICAO), 613; improvement on Conference's technical annexes, 614; PICAO's Interim Council, 616; chart, 617; PICAO set-up, 617 ff.; acceptance of the "Two Freedoms," 621; acceptance of the

"Five Freedoms," 623; new bilateral agreements following Conference form, 624; miscellaneous sequels to the Conference, 624 ff.

COMMON CARRIER BY AIR (see NON-SCHEDULED OPERATIONS)

CONSTITUTIONALITY

bases of federal power, 461-2, 463 (cases), 489, 575; state laws adopting federal regulations, 468; state taxation of planes, 482, 584 ff.; zoning, 487, 552 ff.; proposed Lea Bill for complete federal regulation, 575.

COSTS AND RATES

potentials, 440 and 452 ff.; downward trend in unit operating costs, 440-1; design and operational improvements, 441-2; luxury vs. coach type service, 444, 457; possibilities for lower costs, 452 ff.; significance, often overlooked, of ground and indirect expenses, 452 ff.; actual increasing of ground and indirect expenses, 452 ff.; statistical tables, 453; loss-producing routes, 454; inherent limitations on air transport, 455; high cost terminal charges, 455; coordination with other forms, 455; relation of rate regulation theories to high costs, 456; for a competitively established rate, 456; private airplane competition, 457; joint airline economics, 457; for stressing lower costs and rates, 458.

Drumm, United States v., 563, 568

ECONOMIC ASPECTS (see also COSTS AND RATES)

general survey of the industry, 431 ff.; comparisons with other transportation, 432; origins of the industry, 433; classification of certified carriers, 433-4; comparative figures by nations, 434-5; pattern of international network, 436; potential local and non-stop express service, 437; economic characteristics of air transportation, 438 ff.; essential dynamism, 438; technological development, 438; operational indices, 438-9; future of air transportation, 439 ff.; determinant characteristics, 439; potentialities, 440; potential rates and costs, 440; downward trend in unit operating costs, 440-1; improvements in aircraft design and operating efficiency, 441-2; potential future markets, 443; competitive position against surface carriers, 443; luxury and coach-type service, 444; cargo operations, 445; political obstacles to full potential development, 446; Chicago international conference results, 446-7; cartel dangers, 448; conflicting allegiance tie-ups, 449; influences of financial policy, taxation, regulation, 449-51.

"FIVE FREEDOMS" (see CHICAGO CONFERENCE)

INTERNATIONAL ASPECTS (see also CHICAGO CONFERENCE)

political obstacles, 446 ff.; scheduled and non-scheduled flying, 521; limited liability on international flights, 534, 560 ff.; general discussion of influences on international aviation policy, 598-608; the air sovereignty problem, 603 ff.; "five freedoms" difficulties at Chicago Conference, 606; failures in Chicago Conference, 608.

JURISDICTION (see also STATE REGULATION, LEGISLATIVE PROGRAM)

over domestic civil aviation generally, 459-87; federal jurisdiction, sources and scope, 460 ff.; federal safety jurisdiction, 462-4; federal economic jurisdiction, 464-7; state safety jurisdiction, 467-9; state economic jurisdiction, 469-74; state airport and zoning enabling statutes, 474; state jurisdiction over accident liabilities, 474; survey of liability statutes, 474-7; state workmen's compensation, 477; state assertion of jurisdiction over airspace, 478; historical survey of airspace theory controversy, 479; state and local taxes, types, 480-3; situs theories, 480-1; local jurisdiction (municipal), 483-7; airports, 484; low flights over cities, 484; zoning for airport approaches, 485; state-federal division of regulation, 503 ff., 566.

LEA BILLS (H. R. 3383, 464)

various aspects, 567, 572, 575, 577.

LEGISLATIVE PROGRAM

background of existing legislation, 564; existing state and federal regulation, 566 ff.; to cover private flying, 567; safety regulations for commercials, 568-70; extension of economic regulation by the states, 570-3; proposed exclusive federal regulation, 572; proposal of state commissioners, 572-4; constitutional considerations, 575-6; the case for exclusive federal regulation, 577; regulation of contract carriers, 578; multiple taxation legislation, 579-83.

LIABILITY (see AIR CARRIER'S LIABILITY, AIRPORTS)

NON-SCHEDULED OPERATIONS

statutory background for comprehension of "scheduled" and other terms, 508-9; operations within statutory economic regulation, 509; administrative exemption of non-scheduled operations, 510; meaning of non-scheduled, 511; examples, 512-3; proposed modification of exemptions, 514; significance of "common carrier" in the regulatory scheme, 515-21; some earmarks of common carrier, 516; transportation by seller to buyer, 519; "fly-away" service, 520; international services,

521; international agreements, 521-2; summarizing remarks about non-scheduled operations, 523.

Northwest Airlines v. Minnesota

(state taxation of planes), 482, 575, 580, 584 ff.

PRIVATE FLYING (see NON-SCHEDULED OPERATIONS)

proposed legislation regulating, 567.

REGULATION (see JURISDICTION, LEGISLATIVE PROGRAM)

Rosenhan v. United States

federal regulation of intra-state flying, 463, 568.

STATE REGULATION

safety, 467-9; economic, 469; general discussion of appropriate areas of state economic regulation, 488-507; summary of arguments against state economic regulation, 489-90; proposals to eliminate state regulation, 490; increasing role of local service, 491; aviation does not require exclusive regulation, 492; development not jeopardized by state regulation, 493; state regulation not costly or burdensome, 495; substantial uniformity feasible, 496; for state regulation of developing local commerce, 498; federal regulation impracticable over local lines, 500 ff.; states' rights' position, 502-3; a new approach: reexamining adjustments between state and federal control, 503 ff.; state and federal limitations and areas, suggested criteria, 505-7; objections to state regulation, 570-3.

TAXATION

types of state and local taxes on aviation transport, 480; situs theories, 480-1; proposed legislation to avoid multiple taxation, 579-83; general discussion of air carrier taxation, 584-97; aftermath of Northwest Airlines case, 584 ff.; problems raised by taxation study, 585; present status of airline taxation, 585-7; exclusive federal taxation, 587; difficulties in "differential" taxation, 587-8; problem of defining the allocable base, 588-90; allocable-base appraisal, 590; allocation formulas, 590; federal determination of allocation fractions, 592; federal limitation of state tax rate, 593; taxation of aviation fuel, 594; taxation of fixed base operators, 595; international carriers and foreign lines, 596.

TWO FREEDOMS (see Chicago Conference)

United States v. Drumm

federal regulation of intra-state flying, 563, 568.

WARSAW CONVENTION

limiting liability, 534, 560 ff.